

ARKANSAS COURT OF APPEALS

DIVISION I
No. CA08-440

DONALD BONDS

APPELLANT

V.

IC CORPORATION

APPELLEES

Opinion Delivered November 19, 2008

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[No. F504022]

AFFIRMED

LARRY D. VAUGHT, Judge

An administrative law judge found that appellant Donald Bonds did not suffer a compensable neck injury while employed by appellee IC Corporation.¹ The Arkansas Workers' Compensation Commission affirmed and adopted the ALJ's opinion. Bonds appeals, arguing that substantial evidence fails to support the Commission's decision. We affirm.

In reviewing decisions from the Commission, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission's findings, and we affirm if the decision is supported by substantial evidence. *Parker v. Comcast Cable Corp.*, 100 Ark. App. 400, ___ S.W.3d ___ (2007). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Id.* When an appeal

¹The ALJ also found that Bonds failed to prove a compensable back injury; however, Bonds waived this claim on appeal.

is taken from the denial of a claim by the Commission, the substantial-evidence standard of review requires that we affirm if the Commission's decision displays a substantial basis for the denial of relief. *Id.*

To receive workers' compensation benefits, a claimant must establish (1) that the injury arose out of and in the course of the employment, (2) that the injury caused internal or external harm to the body that required medical services, (3) that there is medical evidence supported by objective findings establishing the injury, and (4) that the injury was caused by a specific incident and identifiable by the time and place of the occurrence. Ark. Code Ann. § 11-9-102(4) (Supp. 2007). Compensation must be denied if the claimant fails to prove any one of these requirements by a preponderance of the evidence. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997). Questions concerning the credibility of witnesses and the weight to be given their testimony are within the exclusive province of the Commission. *White v. Gregg Agric. Enter.*, 72 Ark. App. 309, 37 S.W.3d 649 (2001). Once the Commission has decided an issue of credibility, we are bound by that decision. *Logan County v. McDonald*, 90 Ark. App. 409, 206 S.W.3d 258 (2005).

On November 3, 2003, Bonds, at work for IC Corporation, slipped in some oil or antifreeze and fell on his lower back. He received medical treatment for his back at the emergency room and was returned to work at light duty. Bonds continued to work for IC Corporation until May 2004, when he was terminated for excessive work absences.

In June 2005, Bonds obtained new employment at Conestoga Wood Products. According to Bonds, in September 2005, he quit working at Conestoga because he started having pain in his neck. Bonds was treated by Dr. David Oberlander for his neck pain. Dr.

Oberlander recommended a cervical MRI, which was taken September 2, 2005, and showed a large central disc protrusion at C4–5 with severe canal stenosis, cord flattening, and cord edema. Dr. Oberlander referred Bonds to neurosurgeon, Dr. Badia Adada. Another MRI was performed in December 2005, which showed “a large central disc herniation” at C4–5. Dr. Adada recommended immediate neck surgery, which was performed on January 4, 2006.

The Commission found that while the medical evidence demonstrated objective findings supporting a neck injury, the evidence failed to demonstrate a causal connection between those findings and Bonds’s work. In reaching this conclusion, the Commission found that the objective findings were discovered almost two years after his fall; Bonds did not seek medical treatment for his neck for over a year; he did not seek any neck treatment in the year prior to working at Conestoga; and his testimony lacked credibility.

Bonds argues that substantial evidence does not support the Commission’s decision. He contends that he complained of neck pain within two days of the fall and cites initial medical records for support. He argues that Dr. Oberlander’s testimony—that he believed that Bonds’s neck injury was caused by his fall at work in November 2003—was based not only on Bonds’s history, but also on the doctor’s medical expertise.

We hold that substantial evidence supports the Commission’s decision. Bonds’s complaints of neck pain were very sporadic and inconsistent. He did not complain of neck pain to his initial treating physician, Dr. Stephen Long, on the day of the accident or the day after. Two days after the fall, Bonds did complain to Dr. Long about neck pain; however, two weeks later, Bonds reported to Dr. Long that the neck pain had resolved. Bonds was seen by Dr. Steve Cathey in December 2003 and did not report neck pain.

A physical examination of Bonds performed in late December 2003 showed that Bonds had full range of motion in his neck in all directions without pain. Bonds returned to the doctor on January 26, March 15, 17, and 22, 2004, and did not complain of neck pain, but he did complain of neck pain on March 30. On May 11, 2004, Bonds was seen by Dr. Long and had no neck complaints. The medical evidence demonstrated that Bonds did not seek medical treatment of any kind from May 11, 2004, to August 24, 2005.

Substantial evidence also supports the Commission's finding that Bonds failed to prove that his neck problems were caused by his work at IC Corporation. The objective cervical findings were discovered in September 2005; however, Bonds's employment with IC Corporation ended in May 2004. More importantly, there was evidence that Bonds's neck problems could have been caused by his work at Conestoga. The record reflected that Bonds began working for Conestoga in June 2005 shaving cabinets. Seven hundred times a day, he picked up a board (weighing up to seven pounds) and placed it on a machine to be shaved. Bonds testified that when he went to work at Conestoga, he was not having any problems with his neck; his neck problems started in September 2005 while working there.

Finally, the Commission questioned the credibility of Bonds based on the inconsistent nature of his testimony. The Commission is the fact finder, and its determination on credibility has the full force and effect of a jury verdict. *Hooks v. Gaylord Container Corp.*, 67 Ark. App. 159, 992 S.W.2d 844 (1999).

Based on the above, we hold that substantial evidence supports the Commission's decision that Bonds failed to prove a compensable neck injury, and we affirm.

Affirmed.

GLADWIN and HUNT, JJ., agree.